IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Bail Appl..No. 5319 of 2007()

CRIME NO. 89/2007 OF THE PAYYAVOOR POLICE STATION

PETITIONER/ACCUSED

KOLLAN MOHANAN @ CHEKORU,
KOTTIYAT MOHANAN, S/O.KRISHNAN NAMBIAR,
AGED 45 YEARS, PAYYAVOOR AMSOM DESOM,
P.O.PAYYAVOOR, KAKKATHODE.

BY ADV. SRI.P.BABU

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.No. 5319 of 2007

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Dated this the 10th day of September, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations under Sec.326 IPC. Investigation is in progress. The petitioner apprehends imminent arrest. The learned counsel for the petitioner submits that the petitioner is not actually the aggressor but he is only the victim of aggression. A counter case has been registered. The petitioner actually suffered a grievous injury- fracture of rib bone. The allegations raised are totally false.

2. The learned counsel for the petitioner finally submits that even if the entire allegations were accepted, offence cannot fall under Sec.326 IPC. There being no allegations of using any weapon for committing the offence by the petitioner, the learned Public Prosecutor fairly concedes that there is no allegation that the petitioner has used any dangerous weapon for commission of the offence. The allegation was only that the petitioner had bitten the de facto complainant and injuries caused to him. Even

assuming the injury is grievous, the offence does not fall under Sec.326 IPC, submits the learned counsel for the petitioner.

3. Having considered all the relevant circumstances, I find merit in the prayer for anticipatory bail filed by the petitioner and I am satisfied that subject to appropriate conditions, anticipatory bail can be granted to the petitioner.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 Cr.P.C

i) Petitioner shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 17.09.2007.

ii) He shall be released on regular bail on condition that they execute a bond for Rs.50,000/-(Rupees fifty thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 4 p.m on 18.09.07and 19.09.07 and thereafter on all Mondays and Fridays between 10 a.m and 12 noon for a period of two months. Subsequently the petitioner shall so appear as and when directed by the investigating officer in writing to do so.

(iv) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law, as if these directions were not issued at all.

(v) If he were arrested prior to 17.09.07, he shall be released on bail on his executing a bond for Rs.50,000/- (Rupees fifty thousand only) without any sureties, undertaking to appear before the learned Magistrate on 17.09.07.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE